

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DAVID MADDOX,

Plaintiff,

v.

H. HUANG, et al.,

Defendants.

CASE NO. 1:02 CV-5225 DLB PC

ORDER REQUIRING STATUS REPORT RE
DEFENDANT YOUNG

THIRTY DAY DEADLINE

Plaintiff is a state prisoner and was proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. This action was closed on October 10, 2008. when the Court granted summary judgment in favor of defendants Huang, Lewis and Neubarth. Plaintiff is presently appealing the judgment to the Ninth Circuit.

Procedural Background Regarding Defendant Young

On March 1, 2002, Plaintiff filed this action. On July 11, 2002, the Court screened plaintiff's complaint and ordered service of process on defendants Huang, Young, Neubarth, Robinson, and Hamner.¹

On October 11, 2002, defendants Neubarth, Huang, Young and Hamner filed a motion to dismiss this action or in the alternative, for a more definite statement. (Doc. 34). Defendants were represented by the Attorney General's Office. Defendants' motion was granted in part and denied in part, and Plaintiff was granted leave to file a second amended complaint. (Doc. 48). Plaintiff filed

¹ The summons for service on defendant Robinson was returned unexecuted on August 28, 2002.

1 a second amended complaint on May 19, 2003. (Doc. 53). Nothing in the file indicates that Plaintiff
2 served defendants with the second amended complaint at the time of filing. Nevertheless, in 2006
3 the Court screened his second amended complaint and found that it stated cognizable claims for
4 relief against defendants Lewis, Robinson, Neubarth, Huang and Young. On December 14, 2006,
5 the Court ordered the United States Marshal to serve process on the five defendants.²

6 Notwithstanding the fact that defendant Young was represented by the Attorney General's
7 Office, and plaintiff was aware of the Attorney General's address for service, plaintiff listed
8 defendant's Young address for service as Pleasant Valley State Prison. The summons for defendant
9 Young was subsequently returned unexecuted. (Doc. 67). Defendant Young never responded to the
10 amended complaint.

11 As was previously stated, defendants Huang, Neubarth and Lewis were dismissed from this
12 action on October 10, 2008, when summary judgment was granted in their favor. (Doc. 92).

13 **Counsel for Defendant Young**

14 The Attorney General's Office has never moved to withdraw as counsel of record for
15 defendant Young. In the Eastern District of California, Local Rule 83-182(d) addresses the standards
16 for an attorney withdrawing as an attorney. Local Rule 83-182(d) reads in part:

17 [A]n attorney who has appeared may not withdraw leaving the client in propria
18 persona without leave of Court upon noticed motion and notice to the client and all
19 other parties who have appeared. The attorney shall provide an affidavit stating the
20 current or last known address or addresses of the client and the efforts made to notify
21 the client of the motion to withdraw. Withdrawal as attorney is governed by the
22 Rules of Professional Conduct of the State Bar of California, and the attorney shall
conform to the requirements of those Rules. The authority and duty of the attorney
of record shall continue until relieved by order of the Court issued hereunder. Leave
to withdraw may be granted subject to such appropriate conditions as the Court
deems fit.

23 Accordingly, within thirty days of service of this order, counsel for defendant Young shall
24 file a status report with this court.

25 IT IS SO ORDERED.

26 **Dated: November 15, 2008**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

28 ² The summons for service on defendant Robinson was returned unexecuted on March 26, 2007. (Doc. 70).